

PERSONAL PROPERTY TRUST PERPETUITIES ACT
Act 148 of 2008

AN ACT to exclude certain personal property held in trust from the rule against perpetuities and similar rules that potentially affect the duration of trusts.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

The People of the State of Michigan enact:

554.91 Short title.

Sec. 1. This act shall be known and may be cited as the "personal property trust perpetuities act".

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.92 Definitions.

Sec. 2. As used in this act:

(a) "First power" means a nonfiduciary, nongeneral power of appointment over personal property held in trust that is exercised so as to subject the property to, or to create, another power of appointment.

(b) "Nonfiduciary" means, with respect to a power of appointment, that the power of appointment is not held by a trustee in a fiduciary capacity.

(c) "Second power" means a nonfiduciary power of appointment over personal property held in trust that is created or to which property is subjected by the exercise of a first power and that is not a presently exercisable general power.

(d) "Uniform statutory rule against perpetuities" means the uniform statutory rule against perpetuities, 1988 PA 418, MCL 554.71 to 554.78.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.93 Personal property held in trust; interest in or power of appointment over; validity; exercise of second power; determination under uniform statutory rule against perpetuities.

Sec. 3. (1) Except as provided in subsection (3), an interest in, or power of appointment over, personal property held in trust is not invalidated by a rule against any of the following:

(a) Perpetuities.

(b) Suspension of absolute ownership.

(c) Suspension of the power of alienation.

(d) Accumulations of income.

(2) Except as provided in subsection (3), all of the following may be indefinitely suspended, postponed, or allowed to go on with respect to personal property held in trust:

(a) The vesting of a future interest.

(b) The satisfaction of a condition precedent to the exercise of a general power of appointment.

(c) The exercise of a nongeneral or testamentary power of appointment.

(d) Absolute ownership.

(e) The power of alienation.

(f) Accumulations of income.

(3) If a first power is exercised so as to subject the property to, or to create, a second power, the period during which the vesting of a future interest in the property may be postponed by the exercise of the second power shall be determined under the uniform statutory rule against perpetuities by reference to the time the first power was created. A nonvested interest, general power of appointment not presently exercisable because of a condition precedent, or nongeneral or testamentary power of appointment created, or to which property is subjected, by the exercise of the second power is invalid, to the extent of the exercise of the second power, unless the interest or power satisfies the uniform statutory rule against perpetuities measured from the time of the creation of the first power.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.94 Applicability of act to certain personal property.

Sec. 4. This act applies only to a nonvested interest in, or power of appointment over, personal property held in a trust that is either revocable on, or created after, the effective date of this act.

History: 2008, Act 148, Imd. Eff. May 28, 2008.